

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44*bis*)

Applicant's or agent's file reference 069547.0258	FOR FURTHER ACTION	See item 4 below
International application No. PCT/US2005/025929	International filing date (<i>day/month/year</i>) 21 July 2005 (21.07.2005)	Priority date (<i>day/month/year</i>) 21 July 2004 (21.07.2004)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant ESPEED, INC.		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	<p>This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 80%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input checked="" type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44 <i>bis</i> .3(c) and 93 <i>bis</i> .1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44 <i>bis</i> .2).																								

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 23 January 2007 (23.01.2007)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center; font-weight: bold; font-size: 1.2em;">Yolaine Cussac</div> e-mail: pt11@wipo.int

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 26 APR 2006

WIPO

PCT

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To: Samir A. Bhavsar
Baker Botts LLP
2001 Ross Avenue
Dallas, TX 75201
United States of America

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year)

24 APR 2006

Applicant's or agent's file reference
069547.0258

FOR FURTHER ACTION

See paragraph 2 below

International application No.
PCT/US05/25929

International filing date (day/month/year)
21 JUL 2005 (21.07.2005)

Priority date (day/month/year)
21 JUL 2004 (21.07.2004)

International Patent Classification (IPC) or both national classification and IPC
IPC(8) : G06Q 40/00 and US CL : 705/37

Applicant **ESPEED, INC.**

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450, Alexandria, Virginia 22313-1450
Facsimile No. 571-273-3201

Date of completion of this opinion

03 December 2005 (03.12.2005)

Authorized officer:

Blaine R. Copenheaver

Telephone No. 571-272-7774

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/25929

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed
☐ filed together with the international application in electronic form
☐ furnished subsequently to this Authority for the purposes of search

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US05/25929

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	NONE	YES
	Claims	1-130	NO
Inventive step (IS)	Claims	NONE	YES
	Claims	1-130	NO
Industrial applicability (IA)	Claims	1-130	YES
	Claims	NONE	NO

2. Citations and explanations:

Claims 1-130 lack novelty under PCT Article 33(2) as being anticipated by Fisher et al. US 2003/0083983 A1 (hereinafter Fisher).

Per claims 1, 9, 11, 17, 19-21, 33, 39, 57, 61, 68, 79, 83, 101, 105, 123 and 127-130 Fisher discloses in the abstract and in paragraphs 7, 27, 34 and in the "auction manager" 26 of figure 4, and also figures 6, 9 and 13 receiving a first offer for a particular instrument in a particular market from a first market maker at a first offer price; receiving a first bid for the same particular instrument in the same particular market from a second market maker at a first bid price, the first bid price being higher than or equal to the first offer price; and as a result of the first bid price being higher than or equal to the first offer price, automatically increasing the first offer price to a price higher than the first bid price.

Fisher also discloses in the abstract and in paragraphs 8, 12-15, 35, 40-41, 48-53 and 56 and figures 5-14 the matter of claims 2-8, 10, 12-16, 18, 22-32, 34-38, 40-56, 58-60, 62-67, 69-78, 80-82, 84-100, 102-104, 106-122, and 124-126.

Claims 1-130 lack novelty under PCT Article 33(2) as being anticipated by Allen et al. US 2004/0078317 A1 (hereinafter Allen). Per claims 1, 9, 11, 17, 19-21, 33, 39, 57, 61, 68, 79, 83, 101, 69-76, 105, 123 and 127-130 Allen discloses in the abstract and in paragraphs 28, 31, 48, 91-92, 100-104, 124, 142 and figures 6, 9 and 13 receiving a first offer for a particular instrument in a particular market from a first market maker at a first offer price; receiving a first bid for the same particular instrument in the same particular market from a second market maker at a first bid price, the first bid price being higher than or equal to the first offer price; and as a result of the first bid price being higher than or equal to the first offer price, automatically increasing the first offer price to a price higher than the first bid price.

Claims 1-130 have industrial applicability as defined PCT Article 33(4) because the subject matter can be made or used by industry.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US05/25929

Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

<u>Application No. Patent No.</u>	<u>Publication date (day/month/year)</u>	<u>Filing date (day/month/year)</u>	<u>Priority date (valid claim) (day/month/year)</u>
US 2005/0234806 A1	20/10/2005	11/03/2005	19/04/2004

2. Non-written disclosures (Rules 43bis.1 and 70.9)

<u>Kind of non-written disclosure</u>	<u>Date of non-written disclosure (day/month/year)</u>	<u>Date of written disclosure referring to non-written disclosure (day/month/year)</u>
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